

[REDACTED]

[REDACTED]

[REDACTED]

23 SEP 1995

Dear Sir/Madam:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that Section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates you were organized pursuant to a constitution on [REDACTED] to encourage and promote the use of [REDACTED] computers within [REDACTED], to educate owners in the use of the [REDACTED] computer and to share new ideas with other [REDACTED] owners and users.

The group was formed so that owners of [REDACTED] computers could meet monthly to discuss and share computer programs and problems. Members demonstrate public domain and copyrighted software. Public domain software is contributed to create monthly disks which are sold to club members only for the cost of the disk plus a copying charge.

Your membership is open to any person over twelve years of age who subscribes to your purposes.

Your income is derived from membership dues and sales of disks to your membership.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific, literary or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual. A shareholder refers to anyone having a personal and private interest in the activities of the organization.

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code		ED: 10					
Surname		[REDACTED]					
Date		9-23-85					

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that to be exempt an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b) of the Regulations provides that an organization is organized exclusively for exempt purposes only if its creating document limits its purposes and powers to those which are within the scope of Section 501(c)(3).

Section 1.501(c)(3)-1(c)(2) of the Regulations provides, in part, that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(ii) of the Regulations provides that an organization is not organized and operated exclusively for one or more of the purposes specified in Section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of Section 501(c)(3), it is necessary for an organization to establish that it is not organized or operated for the benefit to private interests such as designated individuals.

Section 1.501(c)(3)-1(b)(4) of the regulations further provides that an organization is not organized exclusively for 501(c)(3) purposes unless its assets are dedicated to an exempt 501(c)(3) purpose. To meet this requirement, an organization's creating document must provide that, in the event of dissolution, assets will be distributed for one or more 501(c)(3) purposes, or to the Federal government or a State or local government, for public purposes.

Revenue Ruling 74-116, C.B. 1974-1, page 27, discusses a membership organization devoted to developing and exchanging research data among users of a specific type of computer. The organization also serves as liaison between users and the manufacturer of the computer. The organization conducts meetings and seminars at which operational and technical problems relating to the use of this computer are discussed. Representatives of the manufacturer are invited to attend those functions to answer questions concerning the computer's operation. The organization publishes reports of its meetings and seminars for distribution to members. Membership is limited to organizations that are,

[REDACTED]

rent, or use this specific computer. Income is from membership dues and seminar fees. Expenditures are made primarily for instructional materials, publishing and other operational expenses. The subject organization requested exempt status under Section 501(c)(3) of the Code. It was determined that the organization was not exempt because it was serving the private interests of its members.

Revenue Ruling 74-147, Cumulative Bulletin 1974-1, page 136, describes an organization formed to stimulate the development of, with free interchange of information pertaining to, systems and programming of electronic data processing equipment. Its membership is made up of representatives of diversified businesses who own, rent, or lease one or more digital computers, produced by various manufacturers, without regard to identity of the manufacturer of any such computer. The organization holds semi-annual conferences at which operational and technical problems relating to computer use are discussed. Non-members are invited to attend the conferences and are encouraged to join as members. Income is from conference registration fees. Expenditures are made for meeting expenses and miscellaneous administrative costs. It was determined that the organization qualified for exemptions under Section 501(c)(6).

Revenue Ruling 83-164 Cumulative Bulletin 1983-2, page 95, describes an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer and holds that the organization does not qualify for exemption from federal income tax under Section 501(c)(6) of the Code.

Although your membership effectively is open to the general public, it appears doubtful in view of your organizations name, purposes and activities, that persons not owning [REDACTED] computers would be attracted to become members of your organizations. Specifically, you act as a purchasing agent for your members in purchases of computer software. Your activities cannot be construed as advancing education within the meaning of the Income tax Regulations. Your organization is serving the private interests of your members and, therefore, is not operating exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Code.

The information submitted indicates that your organization is very similar to the organization described in Revenue Ruling 83-164. Your activities are aimed at assisting your members in their use of [REDACTED] computers. Finally, you are promoting the use of a single brand or product, computers manufactured by [REDACTED], and you are not advancing education in general.

[REDACTED]

The organization does not meet the organizational test of Section 501(c)(3) because its purposes are not exclusively within the intentment of Section 501(c)(3) and it's assets are not dedicated to Section 501(c)(3) purposes.

The organization does not meet the operational test of Section 501(c)(3) since it operates to benefit the members who are owners or users of [REDACTED] computers. There is no charitable and/or educational purpose being served.

Because you are neither organized nor operated exclusively for the purposes specified in Section 501(c)(3) of the Internal Revenue Code, it is concluded that you are not entitled to recognition of exemption from federal income tax under Section 501(c)(3) of the Code.

Based on the information submitted, exempt status will not be recognized under any related paragraphs of Internal Revenue Code Section 501(c).

You are required to file Federal income tax returns on Form 1120 for each year that you have been in existence. Contributions to you are not deductible under Section 170 of the Code.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate state officials in accordance with Section 6104(c) of the Internal Revenue Code.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part, that, "A declaratory judgement or decree under this Section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892
cc: State Attorney General